

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

COLE NOELDNER,

Plaintiff,

v.

ORDER

21-cv-244-wmc

TAYLOR COUNTY, BRUCE DANIELS,  
SHERIFF LARRY WOEBBEKING,  
LOGAN SCOLES, AARON BERNAS,  
RHONDA SACKMAN, JOHN DOES  
1-10, BAILEE CHEEVER, WISCONSIN  
COUNTY MUTUAL INSURANCE  
COMPANY, and ABC INSURANCE  
COMPANY,

Defendants.

---

Plaintiff Cole Noeldner, who was incarcerated as a pretrial detainee at the Taylor County Jail for all times material to his complaint, is proceeding in this lawsuit under 42 U.S.C. § 1983, on a Fourteenth Amendment claim and related state law claims against defendant Bailee Cheever based on her alleged sexual assault of plaintiff. Plaintiff's claims against the other defendants concern their failure to protect Noeldner from Cheever's abuse. On May 3, 2022, defendant Cheever filed a motion for summary judgment on the basis that plaintiff failed to exhaust his administrative remedies with respect to his Fourteenth Amendment claim against her. (Dkt. #35.) In the motion, plaintiff Cheever also requested that if the court granted her motion with respect to the Fourteenth Amendment claim, it should decline to exercise supplemental jurisdiction over the state law claims asserted against her. (Def.'s Br. (dkt. #36) 6-7.)

The court set May 24, 2022, as plaintiff's deadline to respond to that motion. That deadline has passed, but plaintiff has neither responded to defendant's motion nor

requested additional time to file his response. Therefore, it appears that plaintiff has abandoned his claims against Cheever. Before dismissing his claims against this defendant, however, the court will give plaintiff one more opportunity to respond to defendant's motion. Plaintiff is advised that his failure to respond by the deadline set forth below will cause the court to dismiss plaintiff's Fourteenth Amendment claims against Cheever with prejudice, for failure to prosecute, and will decline to exercise its supplemental jurisdiction over the state law claims and will dismiss those without prejudice.

ORDER

IT IS ORDERED that:

1. Plaintiff Cole Noeldner has until **June 8, 2022**, to respond to defendant Bailee Cheever's motion for summary judgment.
2. **If plaintiff fails to respond to defendant's motion by that deadline, the court will dismiss plaintiff's Fourteenth Amendment claims against Cheever with prejudice under Federal Rule of Civil Procedure 41(b), for failure to prosecute, and will decline to exercise its supplemental jurisdiction over the state law claims and will dismiss those without prejudice.**

Entered this 25th day of May, 2022.

BY THE COURT:

/s/

---

WILLIAM M. CONLEY  
District Judge